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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,532	09/30/2003	Helmut Lehning	K 213	6095
7590 06/28/2006			EXAMINER	
Klaus J. Bach 4407 Twin Oaks Drive			HYLTON, ROBIN ANNETTE	
Murrysville, PA 15668			ART UNIT	PAPER NUMBER
•			3727	
			DATE MAILED: 06/28/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

1. The indicated allowability of claims 1-3 is withdrawn in view of the newly discovered reference(s) to Stauner. Rejections based on the newly cited reference(s) follow.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the **seal** of rubber or plastic material <u>disposed</u> on one of the container rim and container seal surface and the U profile of the U-profiles (8) must be shown or the feature(s) canceled from claims. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filling date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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Claim Objections

3. Claims 2 and 3 are objected to because of the following informalities: the preambles are inconsistent with the preamble (setting forth the combination) of claim 1 from which they depend. Appropriate correction is required.

Claim Rejections - 35 USC § 103

- 4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 5. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waldenmeier et al. (US 4,055,274) in view of Stauner (US 4,946,209).

Waldenmeier teaches the claimed cover with container except for upper and lower elbow levers and recesses in the container for engaging the levers of the clamping closure mechanism.

Stauner teaches it is known to form a fast-acting clamping mechanism of upper and lower elbow levers.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the fast-acting clamping mechanism comprising upper and lower elbow levers as taught by Stauner for the single lever clamping mechanism of Waldenmeier. Doing so provides a more secure clamping mechanism for engaging the container.

With regard to the recesses, Waldenmeier teaches a single, circumferential groove. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize multiple, spaced-apart recesses since the examiner takes Official Notice of the

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equivalence of a circumferential groove and multiple, spaced-apart recesses for their use in the container art and the selection of any of these known equivalents to secure a cover to a container would be within the level of ordinary skill in the art.

Response to Arguments

6. Applicant's arguments filed April 7, 2006 have been fully considered but they are not persuasive.

Regarding the drawing figures, applicant has indicated withdrawal of proposed figure 2. The drawing figure still fails to meet the requirements of 37 CFR 1.83(a). There is no seal shown in figure 1. Additionally, since figure 1 is a cross-sectional view, any structure shown therein should be shown with the appropriate cross-hatching as set forth in MPEP 608.02.

Conclusion

- 7. In view of the new grounds of rejection, this Office action is made non-final.
- 8. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F.R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.
- 9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various prior art closures teaching features similar to those disclosed and/or

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claimed are cited for their disclosures.

- 10. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.
- 11. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

The I	I hereby certify that this correspondence for Application Serial No is being facsimiled to U.S. Patent and Trademark Office via fax number 571-273-8300 on the date shown below:				
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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse, can be reached on (571) 272-4544.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).). If you would like assistance from a USPTO Customer Service

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RAH June 23, 2006

> Robin A. Hylton Primary Examiner

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